

ORIGINAL

Before the
Federal Communications Commission
Washington D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Revision of the Commission's)
Rules to Ensure Compatibility)
with Enhanced all Emergency)
Calling Systems)

CC Docket No. 94-102
RM - 8143

To: The Commission

PETITION FOR WAIVER OF APPLICATION OF SECTION 20.18(c)

Comcast Cellular Communications, Inc. ("Comcast Cellular"), files this petition ("Petition") seeking waiver of the application of Section 20.18(c) of the Commission's rules¹ to its subsidiary and affiliate commercial mobile radio service ("CMRS") licensees² as such rule would pertain to the operation of their digital wireless systems. This Petition is filed in accordance with the requirements set forth in an Order of the Wireless Telecommunications Bureau released on November 13, 1998.³

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¹ 47 C.F.R § 20.18(c).

² Comcast Cellular, through its subsidiaries, operates non-wireline, A-block cellular systems in Pennsylvania, New Jersey, Delaware, Maryland and Illinois. Comcast PCS Communications, Inc. ("Comcast PCS") an affiliate of Comcast Cellular, is the licensee of D and E Block broadband PCS spectrum serving the Philadelphia, PA Metropolitan Trading Area and Allentown, PA Basic Trading Area.

³ See, In the Matter of Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Order, Rm - 8143 (Wireless Telecomm. Bur.), released November 13, 1998 (the "November Order").

I. BACKGROUND

Section 20.18(c) of the Commission's rules requires that all CMRS licensees within the scope of Section 20.18(a) "be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of Text Telephone Devices (TTY)." Broadband PCS, cellular, geographic area SMR and incumbent wide area SMR licensees are subject to the requirements of Section 20.18(c) "solely to the extent that they offer real-time, two way switched voice service that is interconnected with the public switched network and utilize an in-network switching facility which enables the provider to reuse frequencies and accomplish seamless hand-offs of subscriber calls."⁴ Enforcement of the provisions of Section 20.18(c) was suspended with respect to calls made using digital wireless systems that were not compatible with TTY devices, subject to certain subscriber notification requirements. Such suspension of the rules is to expire on December 31, 1998.

As Comcast PCS has not commenced offering service within its licensed territories, its operations do not fall within the scope of Section 20.18. Therefore, no waiver of the application of Section 20.18(c) is required as to that entity. Further, as Comcast Cellular's licensee subsidiaries operate either standalone analog, or combined TDMA digital/analog cellular systems, each of those entities currently is in compliance with Section 20.18(c) since individuals with speech or hearing disabilities are capable of transmitting 911 calls through use of existing compatible TTY devices operating on each such licensee's system.

⁴ 47 C.F.R. § 20.18(a).

However, Comcast Cellular firmly believes that as more advanced technologies - such as digital wireless systems - are deployed, commercially reasonable efforts must be undertaken to ensure that customers can avail themselves of those services regardless of disability. Unfortunately, as the Commission is aware, current handset and system technology - which is beyond the control of Comcast Cellular - has yet to evolve in such a manner as to permit effective use of TTY devices in conjunction with digital wireless systems. The Cellular Telecommunications Industry Association ("CTIA"), whose membership includes wireless carriers as well as system and handset manufacturers, has been working with consumer groups through the Wireless TTY Forum to establish standards for the manufacture of TTY devices which will be compatible with various digital wireless voice systems. Among other things, the Wireless TTY Forum has submitted its Workplan to the Commission for review. Still, until such time as appropriate standards are established and handset manufacturers produce TTY devices which are compatible with the digital wireless technologies deployed by carriers, speech and hearing impaired individuals continue to have access to 911 through Comcast Cellular's analog networks.

It is the current lack of a viable technological solutions that causes Comcast Cellular to seek waiver of Section 20.18(c)'s requirements as they may apply to the digital wireless systems of Comcast Cellular's licensees and affiliates.

II. A WAIVER OF THE APPLICATION OF SECTION 20.18(C) IS WARRANTED

Under Section 22.119(a) of its Rules, applicable to Cellular Radio Telephone Service, the Commission may grant a request for waiver if it is shown that:

(1) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

(2) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or that the applicant has no reasonable alternative.⁵

Section 24.819(a)(1) of the Commission's Rules, which applies to Broadband Personal Communications Services, similarly requires an affirmative showing:

(i) that the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and that grant of waiver if otherwise in the public interest; or

(ii) that the unique facts and circumstances of a particular case render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest. Applicants must also show the lack of a reasonable alternative.⁶

Comcast cannot show unique facts and circumstances here, however, it can show that a grant of the requested waiver would promote the public interest. While the Commission may be frustrated with the pace of the Wireless TTY Forum process, the simple fact is that there currently are no TTY devices commercially available which permit transmission of 911 calls on digital wireless systems. Nor is Comcast Cellular, as an individual mid-sized carrier, in any position to develop or manufacture any of the equipment or software required to remedy that problem. Thus, there is no alternative which Comcast Cellular could reasonably pursue which would yield a solution to this dilemma. Comcast Cellular refers the Commission to the filings of CTIA and the Wireless TTY Forum in this docket, and specifically to the Workplan of the Wireless

⁵ 47 C.F.R. 22.199(a).

⁶ 47 C.F.R. 24.819(a)(1).

TTY Forum in support of these assertions.⁷ To apply Section 20.18(c) of the Commission's Rules to Comcast Cellular's licensee subsidiaries or to Comcast PCS would be inequitable in light of the circumstances, and would not serve the ultimate goal of achieving compatible TTY devices for the speech and hearing impaired. Therefore, granting the requested waiver is in the public interest.

Paragraph 11 of the November Order requests that petitions for waiver address three specific inquiries related to the future deployment of compliant technology.

Comcast Cellular's response to those matters is as follows:

(1) What steps is the carrier taking or does it intend to take to provide users of TTY devices with the capability to operate such devices in conjunction with digital wireless phones?

As the Commission is aware there currently are no TTY devices commercially available which are compatible for use with TDMA digital wireless systems deployed in the United States. The Wireless TTY Forum has developed a detailed Workplan pursuant to which technical standards for such devices will be developed.

Once those standards are established, manufacturers will be called upon to promptly develop TTY devices compatible for use with digital wireless systems such as those deployed by Comcast Cellular. If in the course of establishing appropriate standards, or of manufacturing compatible TTY devices, it is determined that commercially reasonable modifications are required to be made to network software, Comcast Cellular anticipates deploying such software to the extent required to achieve compliance with Section 20.18(c) with respect to its digital wireless systems.

⁷ Under Section 24.819(a)(2) of the Commission's Rules, an applicant for waiver may cross reference to specific filings which contain information necessary to support the waiver application if such information is already on file.

(2) When does the carrier intend to make this capability available to TTY users? This information should include well-documented timetables and milestones from the carrier regarding the implementation of this capability.

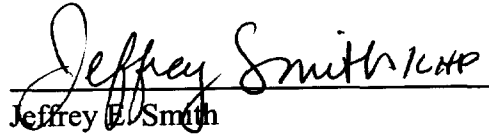
Assuming no system changes are required, users of "digitally-primed" TTY devices which are designed for use with TDMA cellular networks will have access to Comcast Cellular's network immediately upon commercial availability of those devices. In the interim, as current TTY devices operate on analog wireless systems only, no speech or hearing impaired individual is denied access to 911 when attempting to complete calls on any system operated by a license subsidiary of Comcast Cellular. If network software upgrades are reasonably required in order to comply with the Commission's rules, Comcast Cellular anticipates that such software would be deployed in its systems within six months of commercial availability (subject to final testing and acceptance) from Comcast Cellular's network system vendor. With respect to all other timetables and milestones, Comcast Cellular incorporates the information set forth in the Workplan.

(3) What reasonable steps will the carrier take to address the consumer concerns referenced in the *September 30 Order*?

Each of the concerns raised by consumers and referenced in the Order issued in this matter on September 30, 1998, are beyond the control of Comcast Cellular as an individual mid-sized carrier. Comcast Cellular, again, must refer to the Wireless TTY Forum and manufacturers with respect to the technical characteristics of any TTY devices or systems intended to achieve the purposes of Section 20.18(c) as to digital wireless systems. Comcast Cellular will continue to participate in Forum activities as warranted and to monitor the progress under the Workplan.

III. CONCLUSION

For the reasons set forth above, Comcast Cellular requests that the Commission grant it and its affiliates and subsidiaries, a waiver of the application of Section 20.18(c) of the Commission rules as a waiver may pertain to all digital wireless systems it or they operate.

A handwritten signature in black ink, reading "Jeffrey E. Smith", is written over a horizontal line.

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